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June 13, 1997

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Mr. William F. Caton

Acting Secretary

Federal Communications Commission

1919 M Street, N.W.

Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

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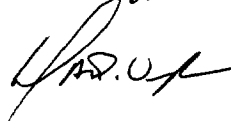
Re: MM Docket No. 87-268
Advanced Television Systems And
Their Impact Upon the Existing
Existing Television Broadcast Service

Dear Mr. Caton:

Transmitted herewith, on behalf of Hubbard Broadcasting, Inc., is an original and four copies of its Petition for Reconsideration and/or Clarification Regarding the Construction Period and Channels 2-6 in the above-referenced Docket.

Should there be any questions, please communicate with the undersigned.

Sincerely,



David A. Vaughan

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Advanced Television Systems
and Their Impact Upon the
Existing Television Broadcast
Service

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MM Docket No. 87-268

PETITION FOR RECONSIDERATION
AND/OR CLARIFICATION REGARDING
THE CONSTRUCTION PERIOD AND CHANNELS 2-6

June 13, 1997

Hubbard Broadcasting, Inc.

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2100 Pennsylvania Ave., NW
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Tel: 202-457-5921

Its Attorneys

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Advanced Television Systems)	MM Docket No. 87-268
and Their Impact Upon the)	
Existing Television Broadcast)	
Service)	

To: The Commission

**PETITION FOR RECONSIDERATION
AND/OR CLARIFICATION REGARDING
THE CONSTRUCTION PERIOD AND CHANNELS 2-6**

Hubbard Broadcasting, Inc. ("Hubbard") through its attorneys hereby petitions for reconsideration and/or clarification of two aspects of the *Fifth Report and Order* (adopted: April 3, 1997), 62 Fed. Reg. 26966 (May 16, 1997) and the *Sixth Report and Order* (adopted: April 3, 1997), 62 Fed. Reg. 26684 (May 14, 1997).

Hubbard, through affiliated companies is the licensee of station KSPT-TV, Channel 5, St. Paul, Minnesota, which is located in the Minneapolis/St. Paul television market, the sixteenth television market. KSTP-TV is an affiliate of the ABC network. Through affiliated companies, Hubbard is also the licensee of television station KSAX, Alexandria, Minnesota, and television station KRWF, Redwood Fall, Minnesota. Both of these stations are operated as satellites of KSTP-TV, rebroadcasting ABC network programming pursuant

to rebroadcast consent provided in the KSTP-TV affiliation agreement, and are included within the Minneapolis/St. Paul television market.¹

Clarification of the Construction Schedule

In the *Fifth Report and Order*, the Commission adopted Section 73.624(d)(1)(ii) of the rules which establishes November 1, 1999 as the date by which stations affiliated with the four networks--ABC, CBS, FOX and NBC--must construct digital television ("DTV") facilities in the television markets eleven through thirty. All commercial television stations in markets other than those network affiliates located in the top thirty markets, must construct DTV facilities by May 1, 2002. See Section 73.624(d)(1)(iii).²

This construction schedule was adopted because the most viewed stations in the largest television markets are expected to lead the DTV transition and are better situated to invest the necessary capital. This will also permit smaller market stations to learn from the experience of the larger market stations. Staggered construction will also help keep costs lower for smaller market stations. *Fifth Report and Order*, para. 79.

The Commission has recognized that in some markets the networks have two affiliates and in such cases has given a longer construction schedule to the smaller of the affiliates, explicitly placing them in the "all other commercial stations" category. *Id.*, para. 86.³

¹ KSAX and KRWF serve small markets, and the community of license for each of the stations does not include Minneapolis/St. Paul.

² Network affiliates in the top ten markets must construct DTV facilities by May 1, 1999 and noncommercial television stations must construct DTV facilities by May 1, 2003.

³ In such cases, the May 1, 1999 and the November 1, 1999 construction requirement applies to the affiliate with the largest market share. *Fifth Report and Order*, n. 163. This means that the affiliate with the smaller market share in each case has until the May 1, 2002 deadline for "all other commercial stations" to meet its construction requirements.

Hubbard seeks assurance from the Commission that satellite television stations, licensed to small communities but assigned to the large market of the parent station, which provide network programming pursuant to rebroadcast consent granted by the network rather than pursuant to an affiliation agreement, as is the case with KSAX and KRWF, will be treated as all other commercial stations not in the top 30 markets with a DTV construction date of May 1, 2002. It should be noted that Hubbard is committed to construction of DTV facilities for KSTP-TV by November 1, 1999, assuming it is not delayed by unforeseen matters beyond its control.

In the event that Hubbard's interpretation is not correct, Hubbard respectfully requests that the Commission reconsider its decision and provide that a satellite television station assigned to a top thirty market, which broadcasts the network programming of its parent pursuant to rebroadcast consent, is entitled to rely upon the construction schedule provided for "all other commercial stations."

The Decision Regarding Channels 2-6 Should Be Reconsidered

As noted above, KSPT-TV telecasts over channel 5 in Minneapolis/St. Paul; therefore, Hubbard is interested in issues specifically affecting channels 2-6.⁴ Hubbard agrees with and supports the recently filed petition of "Certain Channel 2-6 Licensees" requesting that the Commission reconsider its decision in para. 83 of the *Sixth Report and Order* and explicitly provide that all Channels between 2 and 51 will be fairly and equally considered for the DTV core channels ultimately adopted, without bias or presumptions against any of

⁴ Hubbard, through an affiliated company is also the licensee of station KOB-TV, Channel 4, Albuquerque, New Mexico.

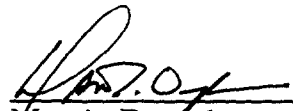
them.⁵ See Petition for Reconsideration of Decision Regarding Channels 2-6 of Certain Channel 2-6 Licensees, filed May 29, 1997. Hubbard hereby incorporates herein, by reference, the Petition for Reconsideration of Decision Regarding Channels 2-6 and requests the same relief as set forth therein.

CONCLUSION

Wherefore, the premises considered, Hubbard respectfully requests that the Commission (1) clarify that the construction period for a satellite station rebroadcasting the network programming of its parent and assigned to a top 30 television market is that of "all other commercial stations," namely, May 1, 2002, and (2) reconsider its decision in para. 83 of the *Sixth Report and Order* to make clear that the Commission, at present, has no reason to question the appropriateness of VHF channels 2-6 for digital broadcast and that all channels between 2 and 51 will be fairly and equally considered for the ultimate core of channels set aside for digital television use.

Respectfully submitted,

HUBBARD BROADCASTING, INC.



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Its Counsel

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⁵ See Hubbard's Reply Comments in connection with the *Sixth Further Notice of Proposed Rulemaking*.